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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,967	01/16/2004	Jerome A. Hapka	1261.030US1	6516
21186 7590 05/02/2008 SCHWEGMAN, LUNDBERG & WOESSNER, P.A. P.O. BOX 2938 MINNEAPOLIS, MN 55402				
EXAMINER				
A. PHU DIEU TRAN				
ART UNIT		PAPER NUMBER		
3633				
MAIL DATE		DELIVERY MODE		
05/02/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/758,967

Applicant(s)

HAPKA ET AL.

Examiner

PHI D. A

Art Unit

3633

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 23-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13, 23-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/1/08 has been entered.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the limitation of claim 31 and 34 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will

be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-13, 23-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Kauffman et al (2040853).

Kauffman et al shows an impact resistant window assembly comprising: a double hung window (figure 2) including a window sash movably disposed within a window jamb assembly along a first plane of movement, the window sash having a sash exterior portion and a sash interior portion, the sash interior portion including a sash surface parallel with the first plane of movement, the window jamb assembly (1) having a jamb exterior portion and a jamb interior portion, the jamb interior portion including a first window jamb surface positioned adjacent the sash surface substantially perpendicular to the first plane of movement and a second jamb surface substantially parallel with the first plane of movement, the first jamb surface having a recess (where 9 is in figure 5) therein extending behind the second jamb surface; and a bracket assembly including a bracket portion having at least a first position and a second position, the bracket assembly (16, 17) disposed within the recess (the claim does not require that the assembly being completely within the recess) and behind the second jamb surface when the

bracket portion is disposed in the first position, the bracket portion disposed over a portion of the sash surface when disposed in the second position, wherein the bracket portion(16) is slideable from the first position (not over the part 11) to the second position (over the part 11), wherein the bracket assembly is substantially concealed in the window jamb assembly from a frontal view of the window when the bracket portion is disposed in the first position, wherein the bracket portion includes a stop(17), where the stop prevents overextension of the bracket portion, wherein the window sash includes a rail and a stile, and the bracket portion is disposed over an interior portion of the rail and the stile when the bracket portion is disposed in the second position, wherein the bracket assembly further includes a filler(19) disposed within the window jamb assembly, one or more fasteners (see figure 4, the fasteners attaching the part 15 to the outer frame) securing the bracket assembly to an outer frame surrounding the window jamb assembly, where the one or more fasteners are concealed from view (from an outside view), the window further including a window jamb liner having a first interior surface and a second interior surface, the first interior surface having the a recess therein covered by the second interior surface, the window sash having an exterior portion and an interior portion and a bracket assembly disposed within the recess of the first interior surface of the window jamb liner, the first interior surface liner positioned adjacent the interior portion of the window sash, the bracket assembly including a filler and a movable bracket portion, the movable bracket portion having at least a first position and a second position, the bracket assembly providing reinforcement to the interior portion of the sash when the bracket portion is disposed in the second position, and the bracket assembly is covered by the second interior surface when the bracket portion is disposed in the first position, wherein the bracket assembly further includes a

base plate (15) coupled with an outer frame of the window, the outer frame surrounding the window jamb assembly, wherein the movable bracket portion is disposed between the filler and a portion of a base plate(the portion is spanning between the filler and base plate), wherein the filler includes interlock features, the interlock features coupling a base plate and the movable bracket portion, wherein the filler has an outer appearance(shape similar to the jamb recess) similar to the jamb liner, wherein the bracket assembly includes a hinge (the neck opening on plate 15 forming a hinge)about which the bracket portion moves, wherein the bracket portion includes a tool access port on a leading edge thereof, wherein only an edge of the bracket portion is viewable when the bracket portion is disposed in the first position a locking feature coupled to a checkrail of the window sash.

Response to Arguments

5. Applicant's arguments with respect to claims 1-13, 23-34 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows different window locking means.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 571-272-6864. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3633

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Phi D A/

Examiner, Art Unit 3633

Phi Dicu Tran A

4/28/08